

**SENTENCING MINUTES**

Date: 07/15/2016

Reporter: Michael A. Rodriguez  
Courtroom Deputy: Margaret Pham  
Time: 09:07AM-10:25AM (01:18)  
Case Number: 1:15-CR-00293-TSE-1

**UNITED STATES of AMERICA**

V.

**WAYNE SHELBY SIMMONS**

Counsel/Deft: WILLIAM BRUCE CUMMINGS Counsel/Govt: PAUL NATHANSON & JAMES L. TRUMP

Court adopts PSI ( ☒ ) without exceptions ( ☐ ) with exceptions:

- Defendant makes 3 objections: (base offense level), obstruction of justice, acceptance of responsibility; defense argues g/l overstates offense; defendant shows remorse for his actions; requests the court allow defendant to self-report, designation close to this area, delay reporting until after daughter's due date (September 8)
- Government stands by agreement for an offense level of 12; disagrees w/ defendant's argument that g/l's overstate conduct
- The Court overrules all 3 objections

**SENTENCING GUIDELINES:**

Offense Level: 19

Criminal History: II

Imprisonment Range: 33 to 41 months

Probation Range: Not Authorized

Supervised Release Range: 1 to 3 years

Fine Range: \$6,000.00 to \$60,000.00

Restitution: \$175,612.00

Special Assessment: \$300.00 (\$100.00 as to each count)

**Court departs from Guidelines pursuant to:**

[ ☐ ] USSG 5H1.4

[ ☐ ] USSG 5K1.1

[ ☐ ] USSG 5C1.2

**JUDGMENT OF THE COURT:**

[ ☒ ] BOP: Indictment Count 3 – 33 months  
Indictment Count 6 – 33 months  
Criminal Information Count 1s – 33months  
All counts to run concurrent and w/ CFTS

[ ☒ ] Supervised Release: 3 years on each count to run concurrent

[ ☒ ] Restitution: \$175,612.00 w/ interest waived – 60 days after release - \$200.00/mo. – Victim E.L. to be paid first

[ ☒ ] Order of Forfeiture

[ ☒ ] Special Assessment: \$300.00 (\$100.00 as to each count)

[ ☒ ] No Punitive Fine

**SPECIAL CONDITIONS:**

1. The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.

2. The defendant shall provide the probation officer access to any requested financial information.

3. The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritances, judgments, and any anticipated or unexpected financial gains, to the outstanding court-ordered financial obligation, or in a lesser amount to be determined by the court, upon the recommendation of the probation officer.

4. The defendant shall participate in a program approved by the United States Probation Office for mental health treatment. The cost of this program is to be paid by the defendant as directed by the probation officer.

5. The defendant shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the defendant has reverted to the use of drugs or alcohol, with partial cost to be paid by the defendant, all as directed by the probation officer.

**RECOMMENDATIONS to BOP:**

- ☒ Deft. to be designated to: a BOP facility near this area in order to be near family  
☐ Deft. designated to facility to participate in ICC (Boot Camp) type program  
☐ Deft. to participate in the BOP 500 Hour Residential Drug Abuse Treatment program (RDAP)  
☐ Other: \_\_\_\_\_

**Deft is:**

- ☐ Remanded ☒ Self Surrender ☐ Cont'd on same terms and conditions of release ☐ In Custody
- Defendant given until the 1<sup>st</sup> week of September to self-surrender so that he may be present for the birth of his grandchild